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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-205702.2

DATE: March 15, 1982

MATTER OF: Fletcher Transfer & Storage, Inc.

DIGEST:

Protest against agency's ruling concerning propriety of working arrangement between two of protester's competitors is dismissed as academic since agency had rejected the competitors' bid as nonresponsive anyway and GAO had later dismissed competitors' subsequent protest to GAO on grounds that competitors had failed to indicate a continuing interest in GAO's consideration of their protest.

Fletcher Transfer & Storage, Inc. (Fletcher), protests the Department of the Air Force's decision to deny a protest Fletcher filed with the contracting officer at Altus Air Force Base, Oklahoma, under invitation for bids (IFB) No. F34612-81-B-0027.

The IFB solicited bids for the packing and crating of household goods and holdbaggage of Department of Defense personnel at Altus Air Force Base. Fletcher filed a protest with the contracting officer against any award to Elk Transfer & Storage Company (Elk) and Advance Moving and Storage, Inc. (Advance), on the grounds that these two companies, which proposed to have Advance perform schedules I and II and Elk schedule III of the contract, were in violation of Defense Acquisition Regulation (DAR) § 7-1601.19 (1976 ed.) regarding subcontract agreements. According to Fletcher, Advance lacks the necessary operating authority from the State of Oklahoma to perform the whole contract and that it entered into an arrangement with Elk in order to circumvent this problem. In other words, Elk was using its operating authority to procure a contract for the benefit of Advance. Fletcher argues that the Elk/Advance working agreement constitutes a subcontract, that such a subcontract is invalid if Advance lacks the necessary operating

authority, and, as a result, that DAR § 7-1601.19 would be violated if the contracting officer accepted the Elk/Advance arrangement as valid.

In response to this protest, the contracting officer informed Fletcher that there was nothing improper with the Elk/Advance arrangement, but that he was rejecting the Elk/Advance bid as nonresponsive on other grounds. Fletcher then filed a protest with our Office which agreed with the Air Force's decision to reject the Elk/Advance bid, but requested our view on the propriety of the Elk/Advance working arrangement and on the question of whether such an arrangement violates DAR § 7-1601.19. At approximately the same time, Elk and Advance had filed a protest with our Office against the Air Force decision to reject their bid as nonresponsive.

Had we sustained Elk and Advance's protest, it would be necessary to consider Fletcher's protest. However, Elk and Advance failed to indicate any continued interest in their protest, and our Office therefore closed the file without taking any action on the merits. In light of this, Fletcher's protest becomes academic, and our review of the issue raised would serve no useful purpose. See, e.g., Andrew Corporation, B-197203, February 23, 1981, 81-1 CPD 124.

We dismiss the protest.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel